

May 30, 2018

Mr. Devin Leary
Human & Rohde, Inc.
512 Virginia Avenue
Towson, Maryland 21286

Re: Kerr Property
28 Glenbrook Drive
Forest Conservation Variance
DEPS Tracking Number 03-18-2667

Dear Mr. Leary:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department on April 20, 2018. The request proposes to impact three of the ten specimen trees on this 2.7-acre property, which is the subject of a proposed two-lot minor subdivision. Seven specimen trees are proposed to remain. The impacted trees are silver maples (*Acer saccharinum*), in fair condition. One of the two lots is developed with a dwelling, driveway, septic reserve area, and mature landscaping. The trees impacted are Trees 1 and 2, impacted by the proposed driveway, and Tree 7 is impacted by an existing septic reserve area.

The property is located in the Phoenix section of Baltimore County, specifically, the Sunnybrook area. It is bounded to the northeast by Hillendale Country Club, and to its east, south and west by single-family residences. No forest is found on the site.

The Director of DEPS may grant a special variance from the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant proposes to remove three specimen trees on the 2.7-acre site. The layout of the subdivision, including the locations of existing and proposed driveways for access and egress, the locations of existing and proposed septic reserve areas, the location of a drainage

and utility easement, and the scattered locations of the specimen trees, show that impacts to the three specimen trees are unavoidable. As stated above, Trees 1 and 2 are impacted by the proposed driveway, which cannot be redesigned to align between Trees 2 and 3 due to a drainage and utility easement in that location, and Tree 7 is located within an existing septic reserve area. The trees cannot be retained without severely impacting the feasibility of the project. However, this would not deprive the applicant of all beneficial use of his property. Denying this variance request would not deprive the applicant of all beneficial use of his property; thus, this criterion is not met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The general conditions of the neighborhood are single-family residences. The need for the variance arises from the unique circumstances of the locations of the scattered specimen trees throughout the site. Alternative locations for the septic reserve area, dwelling and driveway would impact at least three specimen trees and their critical root zones. The petitioner has shown that his/her plight is due to these unique circumstances, and not from general conditions of the neighborhood, therefore, this criterion is met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed development is consistent with its surrounding rural, residential neighborhood and will not alter the essential character of the neighborhood, and this criterion is met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The elimination of the three specimen trees would not impact forest habitat, wetlands, streams, (none of which were found on site) or water quality. Furthermore, sediment control and stormwater management regulations must be addressed. This criterion is met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance, which is the result of actions taken by the petitioner. The petitioner has not taken any action necessitating this variance request. Therefore, this criterion is met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of DEPRM find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The applicant proposes to mitigate for impacts to the three specimen trees by the payment of a fee-in-lieu of planting in the amount of \$5,724.00, and to mitigate for the required afforestation by the purchase of credit at an approved forest conservation retention bank prior to the issuance of any permit. Therefore, this criterion is met.

Based upon our review, this Department finds that the required variance criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following:

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1. A Forest Conservation Plan must be approved prior to the issuance of any permit.
2. Reforestation for removing three native, specimen trees must be addressed by paying a \$5,724 fee-in-lieu of planting to this Department prior to issuance of any building permits. Checks must be made payable to Baltimore County.
3. A note must be on all plans for this project that states: "A Forest Conservation Variance was granted by Baltimore County DEPS to allow the removal of three of ten specimen trees. In this case, mitigation was addressed by the payment of a fee-in-lieu of planting for removal of the three trees. Seven specimen trees have been retained."

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Thomas Panzarella at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

VJG:tcp

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County Forest Conservation Law.

Property Owner(s)

Date

Printed Name(s)

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